

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Dewayne Byrd,

Plaintiff,

v.

Case No. 1:05cv121

Warden, Warren Correctional Institution,

Judge Michael R. Barrett

Defendant.

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed October 31, 2006 (Doc. 11).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** in its entirety. Plaintiff's writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED**. A certificate of appeal should not issue with regard to this matter and an appeal to proceed *in forma pauperis* would be denied until a showing of financial necessity by Plaintiff. This action is closed.

IT IS SO ORDERED.